

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number 16-20436

Honorable David M. Lawson

FRANK MIDDLETON,

Defendant.

**ORDER GRANTING GOVERNMENT'S MOTION
TO VACATE CONVICTION AND DISMISS INDICTMENT**

On June 16, 2016, defendant Frank Middleton was charged in an indictment with conspiracy to commit healthcare fraud and wire fraud, and conspiracy to obtain controlled substances by fraud. On January 17, 2018, he pleaded guilty to conspiracy to commit healthcare fraud and wire fraud, and the Court scheduled a sentencing hearing for April 25, 2018. However, on March 31, 2018, the defendant died. On May 31, 2018, the government filed a motion to dismiss the indictment and vacate the conviction. *See United States v. Toney*, 527 F.2d 716 (6th Cir. 1975) (vacating a conviction and sentence after the defendant died during the pendency of his direct appeal). The Court has reviewed the government's motion and finds that it should be granted.

Accordingly, it is **ORDERED** that the government's motion to vacate conviction and dismiss the indictment [171] is **GRANTED**.

It is further **ORDERED** that the conviction of defendant Frank Middleton entered on January 17, 2018 is **VACATED**.

It is further **ORDERED** that the indictment [1] is **DISMISSED** as to defendant Frank Middleton **ONLY**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: June 6, 2018

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 6, 2018.

s/Susan Pinkowski
SUSAN PINKOWSKI